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March 12, 2004

The Honorable Robert B. Zoellick  
United States Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

Dear Ambassador Zoellick:

Pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Industry Sector Advisory Committee on Capital Goods for Trade Policy Matters regarding the U.S.-Australia Free Trade Agreement, reflecting the consensus of the full Committee on the proposed Agreement.

We want to thank the Administration and the Office of the U.S. Trade Representative for all their hard work in negotiating the Agreement.

Sincerely yours,  
Industry Sector Advisory Committee on Capital Goods

David W. Danjczek  
Chair

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**THE U.S.-Australia FREE TRADE AGREEMENT (FTA)**

**Report of the  
Industry Sector Advisory Committee on Capital Goods for Trade Policy Matters (ISAC 2)  
March, 2004**

## **Industry Sector Advisory Committee on Capital Goods for Trade Policy Matters (ISAC 2)**

### **Advisory Committee Report to the President, the Congress, and the United States Trade Representative on the U.S.-Australia Free Trade Agreement (FTA)**

#### **I. Purpose of the Committee Report**

The purpose of this report is to provide the consensus advice of the Industry Sector Advisory Committee on Capital Goods for Trade Policy Matters (ISAC 2) regarding the U.S.-Australia Free Trade Agreement.

#### **II. Executive Summary of Committee Report**

The U.S.-Australia Free Trade Agreement (FTA), as concluded between the two governments and shared with members of ISAC 2, provides for the elimination of tariff and non-tariff barriers to free trade between the United States and Australia in a manner that provides for equity and reciprocity within the primary sectoral area represented by the Committee: capital goods. ISAC 2 members agree that the U.S.-Australia FTA will increase export opportunities for American capital goods in Australia, while fostering improved protection of U.S. intellectual property and market access for American capital goods in Australia.

ISAC 2 thanks the Administration for its outstanding work on behalf of US industry and workers in having successfully negotiated the immediate elimination of tariffs for products. This immediate zero tariff will have a positive influence on our sector of the economy. Although ISAC 2 is disappointed in the investor-state language, we remain in full support of the overall Agreement.

Key areas within the negotiated agreement of interest to ISAC 2 members include:

- Elimination of tariffs on products;
- Investor-state dispute settlement.

#### **III. Brief Description of the Mandate of ISAC 2**

The mandate of the Committee is to advise the Secretary and the USTR concerning the trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in

connection with the development, implementation and administration of the trade policy of the United States including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder. The Committee also performs such functions and duties and prepares reports as required by Section 135 of the Trade Act of 1974, as amended, with respect to the sector and functional advisory committees.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary of Commerce and the USTR regarding trade barriers and implementation of trade agreements negotiated under Sections 101 or 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act, which affect the products of the capital goods sector; and performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

The current membership of ISAC 2 includes representatives of companies and trade associations representing U.S. manufacturers of a range of capital goods including oil field equipment, machine tools, industrial controls, construction equipment, mining machinery, bearings, electrical machinery and their components.

#### **IV. Negotiating Objectives and Priorities of ISAC 2**

The negotiating objectives of ISAC 2 included:

- Full elimination of all Australian tariffs on products within the scope of ISAC 2;
- Investor-state dispute settlement mechanism.

#### **V. Advisory Committee Opinion on Agreement**

##### **Market Access** - Industrial Goods

Australia tariffs on most capital goods that are not already zero will go to zero when the Agreement goes into effect.

ISAC 2 believes that these provisions fully satisfy the Committee's negotiating objectives and is most pleased with the outcome.

## Investor-State

ISAC 2 expresses extreme disappointment and concern that the Agreement omits the principal protection for U.S. investors that has been included in the other FTA investment chapter (NAFTA, US-Chile FTA, U.S.-Singapore FTA, U.S.-CAFTA) and Bilateral Investment Treaty (BIT”) over the last 20 years: investor-state dispute settlement. While there are substantial protections written into the text of the investment chapter covering national and MFN treatment, expropriation, fair and equitable treatment, the free transfer of capital and other protections, they are virtually meaningless without the ability of investors to enforce the provisions through an investor-state dispute settlement mechanism.

ISAC 2 does not withhold its support of the overall Agreement based on this disappointment, but believes that such mechanisms should be included in all FTA’s.

**All members of ISAC 2 reviewed this report and concluded that the U.S.-Australia Free Trade Agreement provides for the trade liberalization between the United States and Australia in a manner that provides for equity and reciprocity within the capital goods sectors represented by the Committee. ISAC 2 members agree that the U.S.-Australia FTA will increase the export opportunities for U.S. capital goods.**

## **VI. Membership of Committee**

Members of ISAC 2 include:

- **Mr. David Danjczek, Vice President, Administration, Manufacturers Alliance/MAPI (Chairman)**
- **Mr. Brian Petty, Senior Vice President, Government Affairs, International Association of Drilling Contractors (Vice-Chairman)**
- **Mr. Durga Agrawal, President, Piping Technology & Products, Inc.**
- **Mr. Galen Cobb, Director, Industry Relations, Halliburton Energy Services Group**
- **Mr. Gary Devlin, Director of Marketing - Surface Products, Cooper Cameron Corporation**
- **Mr. David Gridley, Executive Director, Marketing Services and Government Affairs, Timken Company**
- **Ms. Leslie Hennessy, Operations Manager, Lovejoy, Inc.**
- **Mr. Jon Jenson, Consultant, Precision Metalforming Association**
- **Mr. William Lane, Washington Director, Governmental Affairs, Caterpillar, Inc.**
- **Mr. Robert McDonald, Vice President, Government Affairs, Emerson Electric Company**
- **Mr. Patrick McGibbon, Vice President, Industry Marketing Services, Association for Manufacturing Technology**
- **Mr. John Meakem, Manager, International Trade, National Electrical Manufacturers Association**
- **Mr. Gerald Prout, Vice President, Government Affairs, FMC Technologies, Inc.**
- **Mr. John Rauber, Jr., Director, Washington Affairs, Deere and Company**

- **Mr. Mark Stanga, Vice President, Government Affairs, York International Corporation**
- **Mr. Patrick Thompson, President, Trans-Matic Manufacturing Company, Inc.**
- **Mr. Franklin Vargo, Vice President, International Economic Affairs, National Association of Manufacturers**
- **Mr. Nick Yaksich, Vice President, Government Affairs, Association of Equipment Manufacturers**